

ALEX. V. FRASER.

[To accompany Bill H. R. No. 625.]

APRIL 13, 1860.

Mr. ELY, from the Committee on Claims, made the following

## REPORT.

*The Committee on Claims, to whom was referred the petition of Captain A. V. Fraser, with accompanying papers, praying for certain additional allowance for rations furnished by him in California in 1849, for the crew of the revenue cutter Lawrence, report:*

That, in the year 1848, Captain Alexander V. Fraser, then in command of the United States revenue brig Lawrence, was ordered on duty to the Pacific coast of the United States. Previous to his departure he agreed with the government to supply the crew of his vessel with provisions, which he would ship from New York to the west coast, at the rate of thirty cents per ration, until the government could advertise for proposals and make the usual contracts for furnishing the same. On his arrival at San Francisco, the collector of the port, who had in the meantime been appointed, was there, and it was found that provisions could be obtained in the usual way. The obligations of the petitioner under his agreement were at an end, and the collector duly advertised for proposals for rations in two newspapers during a period of thirty days. Captain Fraser, being an officer of the government, refused to bid under this advertisement, although he then had on hand 11,200 rations and was urged by his friends to bid or to sell out to private parties. The collector states that Captain Fraser was offered an advance of one hundred per cent. by several of the first firms then in San Francisco. The lowest proposal received by the collector, under the advertisement, was at the rate of two dollars per ration. Captain Fraser declined the solicitations and offers of his friends from a delicate sense of his relation to the government, and delivered his rations to the collector, (sufficient for about ten months consumption,) at the rate of thirty cents per ration, with the understanding with the collector that he should receive such an additional sum as the Secretary of the Treasury, under the circumstances, might consider just and proper. On application to the Secretary of the Treasury, he having no authority to allow it without an appropriation, it was not paid. A protracted absence in the Pacific and other circum-

stances have delayed the presentation of the claim to Congress, until this time.

From the arrangement made between the collector and Captain Fraser, it appears that the government saved about twenty thousand dollars, Captain Fraser having received for his rations three thousand three hundred and sixty dollars; whereas, under the lowest bid, the same number of rations would have cost twenty-three thousand and seventy-two dollars, which he might have made had not a feeling of delicacy at taking advantage of the condition of things and a belief that upon a statement of the facts "a just compensation" would be allowed him in accordance with his understanding with the collector.

It appears that as late as 1853, the prices paid by the government for rations at San Francisco, was sixty-five cents per ration. The claimant asks to be allowed the difference between this price and that which was paid him, under which allowance if made, the government will still have saved the sum of sixteen thousand one hundred dollars. If the proposals under the collector's advertisement had been below the sum agreed to be paid to the claimant, his contract, according to its terms, being no longer obligatory, the collector would have been obliged to accept them and the claimant would have suffered serious loss. This advantage was secured to the government against the claimant under the terms of the contract.

When the government has taken the "private property" of its citizens "for public use," the "just compensation" required to be made under the Constitution, as indicated by past legislation, seems to have been based upon its value at the time of seizure, when that value could be clearly ascertained. If the property in this case had been so seized, instead of being delivered voluntarily, the claimant's just compensation would have far exceeded the allowance asked. Your committee does not admit any legal obligation growing out of the agreement with the collector, but considers the amount asked for justly and equitably due under the circumstances. The claimant refrained from taking advantage of the unexpected and unprecedented high prices existing at the time, which he might lawfully have done, and your committee is of opinion that fidelity to the government should not be discouraged by refusing the allowance prayed for in this case, and therefore report the accompanying bill, and recommend its passage.